



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DONALD HESS and ELIZABETH PADILLA, :
individually and on behalf of all others :
similarly situated, :
:

Plaintiffs, :

- against - :

BED BATH & BEYOND INC., :

Defendant. :
:
-----X

21-CV-4099 (AT) (RWL)

ORDER

ROBERT W. LEHRBURGER, United States Magistrate Judge.

As directed at the conference held on November 30, 2021:

1. For class certification purposes only, Defendant may produce documents from a randomly selected portion of the relevant employees across the relevant stores (of which there are or were approximately 65 in total). Defendant shall provide to Plaintiff an anonymized class list, broken down by store, so that Plaintiff may select 5 employees from each store for whom Defendant will produce documents during the class-certification phase. The sample shall be deemed representative of the approximate 960 total number of relevant employees such that results for the sample may be extrapolated to the larger group of employees.

2. By **December 7, 2021**, Defendant shall serve amended responses to Plaintiff's document requests and interrogatories.

3. By **December 14, 2021**, Plaintiff shall file an amended complaint for the sole purpose of including allegations concerning tolling by executive or similar order. Defendants reserve all rights with respect to the applicability and effect of any such order.

4. The proposed scheduling order submitted by Defendants at Dkt. 37-1 shall govern, with the exception that Plaintiff may file the amended pleading described above. The parties shall file status report every 60 days following entry of this order.

SO ORDERED.

A handwritten signature in black ink, appearing to read 'R. Lehrburger', is written over a horizontal line.

ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE

Dated: November 30, 2021
New York, New York

Copies transmitted this date to all counsel of record.